

For the
SOUTHERN DISTRICT OF TEXAS
Houston Division

No. 4:17-cv-02039

1

2. Deli Management, on information and belief, is a corporation organized and existing under the laws of the State of Texas. Deli Management is doing business in Texas, and, on information and belief, has a principal place of business at 2400 Broadway Street, Beaumont, TX 77702-1904 . Deli Management may be served with process by serving its, Shaw Cowart LLP, John Cowart 1609 Shoal Creek Blvd. Ste. 100 Austin, TX 78701.
3. Defendant is a corporation named Deli Management, INC., trade name Jason's Deli, organized under the laws of the State of Texas and doing business in the State of Texas in the Southern District of Texas, including business at a location in Harris county, State of Texas.
4. Defendant's headquarter
Name: Deli Management, INC.
Address: 2400 Broadway St. Beaumont, TX 77702-1904
Telephone number: (409) 838-1976
5. Place of employment-
Name: Jason's Deli
Address: 901 McKinney St.
State and Zip Code: Houston, Texas 77002.
Telephone Number:(713) 650 1500

JURISDICTION AND VENUE

6. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 AN 1345. This action is authorized and instituted pursuant to sections 706(f)(1) and (3) of the Title VII of the Civil Rights Act of 1964, as amended,

42 U.S.C §§ 2000e-5 and (3) ("Title VII) and section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

7. The alleged unlawful employment practice were committed within the jurisdiction of the United States District Court of Southern District of Texas.

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of gender, sexual and/or retaliation, and to provide appropriate relief to Milton Zaid Arrendondo who is adversely affected by such unlawful practices. As alleged with greater specificity in paragraphs below, Milton Zaid Arredondo ("Plaintiff") alleges that Jason's Deli, discriminated against him, and further claims that Defendant retaliated against the plaintiff.

STATEMENT OF CLAIMS

8. The plaintiff Milton Zaid Arrendondo was sexually harassed at his place of employment Jason's Deli by another employee named Comeletia Lewis, a catering assistant.
9. In August 10th, 2016 Comeletia Lewis slapped the plaintiff on his butt very hard while plaintiff was talking to a co-worker at the front make line.
10. September 6, 2016, Comeletia Lewis, slapped the plaintiff again on the butt while the plaintiff was bending down setting up merchandise.

11. In October 5th, 2016, the plaintiff was having lunch with a co-worker when Comeletia Lewis approached the both and leaned her hips on the plaintiff left shoulder.
12. Each of the above referenced incidents was unwelcomed by the plaintiff. The plaintiff did not solicit or incite the conduct of Comeletia Lewis. The plaintiff regarded the conduct as undesirable and offensive. Conduct is unwelcome if the employee did not solicit or incite it and if the employee regarded the conduct as undesirable or offensive. See *Burnes v. McGregor, Electronic Industries, Inc.*, 989 F.2d 959, 962 (8th Cir. 1993).
13. The plaintiff reported the 3 incidents to manager Christina Pepera.
14. Manager Christina Pepera did not investigate the incidents.
15. Plaintiff contacted Networking (employee advocate) and was advised they did not have a complaint filed on his behalf.
16. Plaintiff contacted Jason Deli Human Resource and was advised HR did not have a complaint filed on his behalf.
17. In December 2016 Jason's Deli Human Resources came to the location and interviewed employees. The manager, Christina Pepera, was present and sat in on every employee interview creating a hostile environment to intimidate the potential witnesses.
18. On January 3, 2017, manager Christina Pepera advised that Comeletia Lewis was transferred to another store and the case was closed.
19. Plaintiff filed a claim before the U.S. Equal Employment Opportunity Commission. The EEOC issued a Dismissal and Notice of Right to sue letter.

The letter indicate that Mr. Arredondo (Plaintiff) has 90 days from receipt of that notice in which to file a lawsuit in federal district court. Arredondo received EEOC right-to-sue letter postmarked April 7, 2017, received on April 10, 2017. Hence, Mr. Arredondo is filing this complaint within the time established in the letter issued from U.S. Equal Employment Opportunity Commission

20. The defendant Jason's Deli failed to take the plaintiff complaint in a prudent and ordinary way, not with the seriousness required. The fact indicate that the plaintiff is he is a male employee complaining of the unwelcomed touching of a female employee. Perhaps of the unwelcome conduct, there was gender discrimination due to the fact that the defendant did not give the required attention because the claim was issue for unwelcome touching from a woman to a man.
21. On June 9, 2017 Manager Christina Pepera retaliated against the plaintiff by filing a disciplinary action report alleging the plaintiff had made negative comment regarding co-worker ethnic background with the threat if the behavior continues it could lead to plaintiff termination.
22. The effect of these practices has created an abusive working environment for the plaintiff in violation of Title VII Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991.
23. The conduct in question is severe or pervasive enough to be covered by the law
24. The conduct was not welcome

25. A reasonable person in the employee's situation would have found it objectionable

26. The employer is responsible.

PRAYER FOR RELIEF

Wherefore, Milton Zaid Arredondo respectfully request that this Court:

- A. Grant a permanent injunction enjoining the Defendant, their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in employment practices which discriminate on the basis of the gender, sexual and/ or retaliation.
- B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for employees and which eradicate the effects of Defendants' past and present unlawful employment practices.
- C. Order Defendant to provide compensation for the past and future pecuniary losses resulting from the unlawful employment practices described above, in amounts to be determined at trial.
- D. Order Defendant to compensate for past and future non-pecuniary losses resulting from the unlawful practices complained of above, including pain, suffering and humiliation, in amounts to be determined at trial.
- E. Order Defendant to pay for punitive damages for Defendants' malicious and reckless conduct in amounts to be determined at trial.

F. Grant such further relief as the Court deems necessary and proper in the public interest.

G. Award the plaintiff its cost of this action

JURY DEMAND

The plaintiff request a jury trial on all questions of facts raised by its complaint.

CERTIFICATION AND CLOSING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint; (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law of by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for futher investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

Respectfully submitted

WILLIAM E. JONES JR.
Attorney for Plaintiff
FED.Bar #31200
TBA 24029646
weverettjonesjr@yahoo.com
4151 Southwest Frwy. Suite 320
Houston, Texas 77027

TEL (713) 850-1908
FAX (713) 850-1905

CERTIFICATE OF SERVICE

I hereby certify that on the 23th day of October of 2017, I will electronically file the foregoing with the Clerk of the Court using CM/ECF system. I also certify that the foregoing document is being served this day, via transmission of Notices of Electronic Filing generated by CM/ECF, on the counsel listed below. And I will mail the document by U.S. mail to the following:

Via First Class Certified R/R mail:

SHAW COWART, L.L.P

Attorneys at Law

John Cowart

1609 Shoal Creek Blvd.

Austin, TX 78701

TEL (512) 499-8900

FAX (512) 320-8906

Counsel for Defendant DELI MANAGEMENT, INC.

_____/s/____

WILLIAM E. JONES JR.

Attorney for Plaintiff

FED.Bar #31200

TBA 24029646

weverettjonesjr@yahoo.com

4151 Southwest Frwy. Suite 320

Houston, Texas 77027

TEL (713) 850-1908

FAX (713) 850-1905

DISMISSAL AND NOTICE OF RIGHTS

To: Milton Z. Arredondo
21006 Barker Canyon Lane
Katy, TX 77450

From: Houston District Office
Mickey Leland Building
1919 Smith Street, 7th Floor
Houston, TX 77002



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

460-2017-02168

Jose T. Vega,
Investigator

(713) 651-4941

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible.

On behalf of the Commission

For: [Signature]

Enclosures(s)

Rayford O. Irvin,
District Director

3-30-2017

(Date Mailed)

cc:

Christina Pepera
General Manager
JASON'S DELI
901 McKinney
Houston, TX 77002

Lowell Keig, Director
TWC/Civil Rights Division
101 East 15th Street, Room 144T
Austin, TX 78778

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA

☒ EEOC

460-2017-02168

Texas Workforce Commission Civil Rights Division

and EEOC

State or local Agency, if any

added that she would keep me updated. Time went on, she never talked to me about the progress of my complaint, her no action made me feel ignored. After a month and a half and she didn't tell me anything, I decided to call the Networking (The Networking is a third party company that looks over Jason's Deli employees interest) they told me they didn't have information about any case of mine, this company advised me to call Jason's Deli HR.

-I called Jason's Deli HR and I was told they didn't have any information about my case either. I spoke to Ms. "Z" about all the events and I felt she was genuinely concerned about my situation. She said she would send somebody to the store I work to find out the details. This gave me impression that Christina never filed my complaint to the corporation.

-Ms. Megan, from Jason's Deli Human Resources, came to the store I work for the second week of December 2016; Christina was surprised to see somebody from the Human Resources Dept. Megan interviewed most of the store employees. I must say that Christina Pepera, the manager, was present at every employee's interview. Additionally, she was interrupting on Lita's favor causing the employees to feel intimidated; I believed she should not be present when HR interviewed employees. In addition, we were requested to write a statement of the interview. At the end of the interview, Ms. Megan informed me that she would have an answer the following week.

-I was sent home around December 15th to be off for the last two weeks of December 2016. On January 3rd, 2017, I returned to work and Christina informed me that Lita was transferred to another Jason Deli location five blocks away from the location I work for and that was the end of my case. At the end of the day, I requested a copy of the case file, she responded she would ask HR, and after 10 minutes she told me she could not give me anything because it was strictly confidential. I was confused with her answer because I am the affected party of all these events.

-At the end of January 2017 I was sent to a bank that is located just across the location where Lita works at. To get to the bank, I have to see her across the glass in order to take the escalator to the bank. Just seeing her again I felt extremely uncomfortable. On February 2nd, 2017 at 9:05 a.m. I was at work when Maria (Catering manager) asked me to go to the store Lita works at to pick up a bag of 3 bean salad, I told her to look for somebody else to go there because it makes me really uncomfortable to see her. Maria said that Stephanie Terry (Manager) gave her instructions to send me because apparently there was nobody else to be sent. So I was upset and sad that they were making me face Lita again.

-Just about in the middle of February 2017 early in the morning, there was a Guatemalan guy looking for Christina and since he did not speak English, she instructed me to take him to the location where Lita is working now. I had to go against my will to face my aggressor again. March 23, 2017, in pre-shift Stephanie Terry, suggested having a picnic with the employees of both stores. Such a thing indicates me that she is not sensitive to the fact that I will be confronted with my aggressor again.

-Christina was planning for me and Lita to work together because she requested Lita to work in the same Jason store where I work on Saturday February 4th, 2017. Fortunately, I was not able to go to work on that day. She is clearly violating my rights by discriminating me like this. I have a copy of the schedule that was arranged by Christina for Lita to come to work to the same store where I work for.

-Friday March 24, 2017, Christina talked to me and asked me to be discreet about Lita's issue because she heard that people are gossiping and she said that Management did not know about the times that I was sent to the store where Lita works. Even when she herself sent me there! -For all the above, it is clear that Christina the manager didn't have the intention to do anything regarding the fact that I was sexually harassed by a female employee.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Mar 27, 2017

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

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460-2017-02168

Texas Workforce Commission Civil Rights Division

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Mr. Milton Z. Arredondo

Home Phone (Incl. Area Code)

(832) 282-6803

Date of Birth

1978

Street Address

City, State and ZIP Code

21006 Barker Canyon Lane, Katy, TX 77450

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

JASON'S DELI - DELI MANAGEMENT INC-DTH

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(713) 650-1500

Street Address

City, State and ZIP Code

901 McKinney, Houston, TX 77002

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)



RACE



COLOR



SEX



RELIGION



NATIONAL ORIGIN



RETALIATION



AGE



DISABILITY



GENETIC INFORMATION



OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest

08-01-2015

03-24-2017



CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

-The first incident occurred back in the middle of August 2016 when Comeletia Lewis (Lita), Catering assistant slapped my butt very hard while I was talking to a co-worker at the front make line.

-The second time happened on September 2016, she did slapped my butt again while I was bending down setting up merchandise that we normally get on Tuesdays and Fridays. -The third time occurred at the beginning of October 2016 while having lunch with a co-worker. Lita approached the booth where I was having lunch with a co-worker standing next to me trying to talk to her, and she leaned her hips on my left shoulder.

-There are three managers in the store. The main manager, Christina Pepera was on vacation due to pregnancy and since I have had differences with the manager in charge at the time (Stephanie Terry), I didn't feel like talking to her so I just waited for Christina to come back.

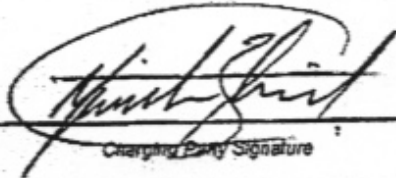
-Christina Pepera came back to work on October 2016. I talked to her about how Lita had been harassing me. She asked me to write down a statement. Once I gave it to her, she said it would take a few days for her to perform an investigation. She

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Mar 27, 2017

Date


Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

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and EEOC

State or local Agency, if any

-Only after my direct inquiry to the Human Resources of corporate office, is when they found out about my case. Christina disregarded my complaint which it is clear that it was not taken into consideration just because I am a man. If the case was the other way around, I would have been dismissed immediately. -The fact that Christina forces me to see Lila again by sending me to the same store where Lila works makes me feel discriminated, ignored, and frustrated.

I believe I was sexually harassed and discriminated against due to my race, all in violation of Title VII of the Civil rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Mar 27, 2017

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)